IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No. 1477 of 1995

Date of decision: 7th September, 2006

Smt.Ram Krishani Sharma		..Petitioner
	Versus	
Union of India & others		.. Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, J.

Whether approved for reporting ?[1]

For the petitioner: **Mr M L Sharma, Advocate.**

For respondents 1 & 2 : **Ms. Shilpa Sood, Central Government Counsel.**

Deepak Gupta, J. (Oral).

This petition was originally filed by Sh. S N Sharma. The original petitioner was initially employed as Sub Inspector in the CRPF in the year 1960. In the year 1967, he was directly selected as Deputy Superintendent of Police and in the year 1976, he was working as Assistant Commandant in the CRPF.

Thereafter, the petitioner tendered his resignation and prayed that it may be accepted with immediate effect. Though the letter of

[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

resignation has not been placed on record but it appears that the same was dated 1st October, 1976. This resignation was accepted by the respondents and the petitioner was relieved from service on 3rd December, 1976. Though documentary material has not been placed on record but it appears that between these two dates, the petitioner had sent a letter to his employer for withdrawing his letter of resignation.

After the petitioner was relieved from the service, he did not challenge the order whereby his resignation had been accepted and in fact joined service in the H P University, Shimla as Security Officer in the year 1979. He continued to work in the University and it was only in the year 1995, i.e. 19 years after his resignation was accepted, that he filed this petition, claiming that his resignation had wrongly been accepted by his employer. I am not going into the merits of the case since in my opinion the petition is highly belated and deserves to be rejected on the short grounds of delay and laches.

Mr Sharma, learned counsel for the petitioner submits that the fundamental rights of the petitioner have been breached and he has been

denied equal treatment of laws under Articles 14 and 16 of the Constitution of India and hence the petition should not be rejected on the grounds of delay and laches. In support of this contention, judgment of the Supreme Court in K ***Thimmappa and others vs Chairman, Central Board of Directors, State Bank of India and another*** (2001) 2 SCC 259, has been relied upon by the learned counsel.

I have gone through the judgment and in my opinion this judgment does not in any manner support the case of the petitioner. In the present case, in fact it cannot be said that there has been breach of the fundamental rights of the petitioner. Assuming for the sake of argument that the petitioner's resignation stood withdrawn, prior to its acceptance, then also the order of acceptance having been passed and the petitioner having been relieved from service as far back as 3rd December, 1976 the petition is hopelessly delayed. The petitioner was an educated person holding a responsible post and was expected to be vigilant with regard to his rights. No person can sleep over his right for a long period of time and then suddenly wake up from his deep slumber and claim that by an illegal action his rights have been

affected. No doubt in the petition, it is mentioned that the petitioner had been corresponding with his department, but even in this regard not much material has been placed on record and in my opinion the petitioner slept over the matter over for 19 years and there is no explanation for this ordinate delay. Therefore, the petition is dismissed on the ground of delay and laches

September 7, 2006 (Deepak Gupta),J.
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